

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

MOHAMMAD M. KARGARIAN,)	
)	
Plaintiff,)	
)	
v.)	
)	No.: 3:14-CV-00167-GCM
O'REILLY'S AUTO PARTS STORES,)	
)	
<u>Defendant.</u>)	

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This matter comes to the court on the motion of Defendant O'Reilly Automotive Stores, Inc. (incorrectly identified in the summons and complaint as "O'Reilly's Auto Parts Stores" and referred to herein as "O'Reilly"), to dismiss this matter pursuant to Rules 12(b)1, 2, 4, 5, and 6 of the Federal Rules of Civil Procedure. Specifically, O'Reilly contends that *pro se* Plaintiff Mohammad Kargarian fails to state a claim upon which relief can be granted because Plaintiff provides no factual or legal basis for any purported claims of national origin discrimination. Further, O'Reilly contends that Plaintiff's claims should be dismissed for failure to state a claim upon which relief can be granted because Plaintiff makes no claim for damages and requests no relief in the body of the complaint. Finally, O'Reilly contends that this matter should be dismissed on the grounds of misnomer.

O'Reilly timely filed its motion to dismiss on July 13, 2014. The Court issued a *Roseboro* notice to Plaintiff on September 3, 2014. On September 15, the Plaintiff filed a motion for extension of time to respond, which the Court granted. Plaintiff's response was due October 24, 2014. However, as of today's date, Plaintiff has failed to file any response to O'Reilly's motion to dismiss. Based on Plaintiff's failure to file a timely response to the pending motion to dismiss

and on the arguments of authority presented by Defendant O'Reilly in its motion and memorandum, the undersigned finds that the motion to dismiss should be granted. For the foregoing reasons, Defendant's motion to dismiss is hereby granted and this matter is dismissed without prejudice.

Signed: October 27, 2014

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

